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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION

(Department of Labour and Employment)

NOTIFICATION

New Delhi, the 14th April 1969

S.O. 1427.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the National Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to M/s. Bennett Coleman & Company Limited and their workmen, which was received by the Central Government on the 9th April, 1969.

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL AT DHANBAD

In the matter of a reference under sub-section (1A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947).

N. T. REFERENCE NO. 10 OF 1967

PARTIES:

Management of Messrs Bennett Coleman & Company Ltd.,

AND

Their Workmen.

PRESENT:

Shri Kamla Sahai, Presiding Officer.

APPEARANCES:

For the Management:—Shri N. V. Phadhke, Advocate with Shri F. N. Kaka, Advocate instructed by M/s. Chimanlal Shah & Co., Attorneys-at-Law.

For the Union:—Shri K. T. Sule, Advocate with Shri H. L. Parvana and T. N. Nagarajan.

STATE: Maharashtra. INDUSTRY: Newspaper.

Dhanbad, dated the 31st March, 1969

AWARD

This reference arises out of a unanimous resolution dated the 12th December, 1964, passed by the Wage Board for non-Journalist workmen in the Newspaper industry, granting interim relief. I wish to state some facts before mentioning the exact terms of the reference.

2. The journalist as well as the non-journalist employees of the newspaper industry formed an organisation called the All India Newspaper Employees' Federation. The Bombay employees of the Bennett Coleman & Co. Ltd, joined the Federation through their union named the Times of India and Allied Publications Employees' Union. The Delhi employees of the Company joined the Federation through their union known as Bennett Coleman & Company's Employees' Union.

3. An Act applicable to the working journalists was passed in 1955. This was called the Working Journalists (conditions of service and miscellaneous provisions) Act, 1955. No such Act was, however, passed for the benefit of the non-journalist employees of the newspaper industry.

4. The Government of India appointed a Wage Board for the Journalist workmen by its notification dated the 13th November, 1963. Thereafter, on the 25th February 1964, by its notification No. WB-17(2)/63, the Ministry of Labour and Employment of the Government of India constituted a Wage Board for non-journalist employees. Both the Wage Boards were placed under the Chairmanship of Mr. Justice Shinde (Retd.). Representatives of the employers and employees were also put on the Board.

5. The All India Newspaper Employees Federation made a request to the Wage Board for grant of interim relief to the non-journalist employees The Wage Board for non-jourlanists was in some doubt and hence it sought a clarification from the Government of India as to whether it had jurisdiction to decide the question and recommend the payment of interim relief. The Government of India then issued a notification in which it said among other things.

> "the Board shall also consider the demands for grant of interim relief to the non-journalist employees of the newspaper establishments pending the submission of its final report."

Under the instruction of the Wage Board, the managements of the different newspaper establishments including those of the Times of India supplied certain informations on proformas prepared by the Board.

6. After taking all available materials into consideration, the Wage Board, at its meeting in Bombay, dated the 12th December, 1964, unanimously decided that the non-journalist employees in the newspaper industry should be paid interim relief. According to their resolution, non-journalist employees of the newspaper establishments for A, B, class of newspapers were to be paid a flat relief of Rs. 15/- per month which was to be payable with effect from the 1st May, 1964. This resolution was signed by the Chairman and other members including Shri Upendra Acharya, a representative of the employers.

7. The All India Newspaper Employees' Federation then raised the contention that it was erroneous on the part of the Wage Board to divide a newspaper establishment having more than one newspaper into different categories for the purpose of payment of inteim relief. The Federation's contention was that there should be one uniform interim relief for employees of one particular establishment. At its meeting dated the 15th February, 1965, the Wage Board modified its earlier recommendation regarding classification of newspaper establishments, dividing one establishment into several for the payment of interim relief and recommended that interim relief be paid on the basis of the average I understand from both parties that the average interim relief in the case of Bennett Coleman and Company

Limited comes to Rs. 11·00 per month for each employee. This recommendation was accepted by the Government of India and it published the same in the Government of India Gazette Part I, Section I, dated the 24th April, 1965. The Unions began demanding fulfilment of this recommendation but the Company consistently refused the payment on the ground that the recommendations of the Wage Board in respect of non-journalists were not statutorily binding on the management.

8. The Wage Board for journalists also gave interim relief to the journalist employees. Admittedly, these recommendations were statutorily binding upon the Company but it filed a writ application in the Bombay High Court for quashing the notification of the Government of India whereby it accepted the recommendations of the Wage Board for journalists for interim relief.

9. I may also mention that, previously, there was a dispute between the employers and the employees of the Bennett Coleman & Co., because certain demands were made by the Times of India and Allied Publications' Employees' Union in or about October, 1961. The Government of Maharashtra referred these demands for adjudication to the Industrial Tribunal at Bombay, presided over by Mr. Meher. On the 14th March, 1963, the company and the Bombay Union agreed to refer all the disputes to the sole arbitration of Shri S. T. Desai, who made his award on the 13th July, 1963. According to that award, among other things, dearness allowance payable by the Company was not only linked to the consumer price index in Bombay but also to the basic salary drawn by the particular employee. Hence the dearness allowance paid by the Company increased with the increase in the consumer price index. Various percentages of increase was also provided for each wage group. The award of Shri S. T. Desai was filed by the parties before the Industrial Tribunal as a settlement on the 9th September, 1963. The Industrial Tribunal made its award in terms of Shri Desai's award, treating the award as a settlement to the extent that it covered the reference before it. The award was to remain binding for 5 years from the 1st August, 1962. The terms which were laid down by Shri Desai were made applicable by the Company to its Delhi employees also and thus the conditions of services of the employees of Bennett Coleman and Company, both in Delhi and Bombay, came to be the same.

10. As the Union insisted upon payment of the interim relief and the Company persisted in its refusal, the Union gave two notices of strike and ultimately all the employees of the Delhi and Bombay establishments of Bennett Coleman and Company went on strike with effect from 6 P.M. on the 17th February, 1967. This was followed by a lockout which was declared by the Company on and from the 27th February, 1967. Both the strike and the lockout came to an end on the 26th March, 1967, when the parties entered into a settlement at the intervention of the Ministry of Labour, Government of India.

11. By its order No. 17/4/67-LRIII, dated the 4th July, 1967, the Central Government in the Department of Labour and Employment made this reference to the National Tribunal at Bombay for adjudication of the issues, put in the schedule as follows:—

SCHEDULE

(a) Whether the non-journalist workmen of Bennett Coleman & Co. Ltd., have been excluded by the Wage Board for Non-journalists, for payment of interim relief in their recommendations notified by the Government of India in the Gazette of India dated 24th April, 1965 (Part I, Section I); if not to what relief are the non-journalist workmen entitled?

(b) Whether the Bennett Coleman & Company Limited was justified in not paying wages to its workmen, both in Bombay and Delhi, during the periods of strike commencing from the 17th February, 1967 and lockout, declared from the 27th February, 1967 to the 26th March, 1967; if not, to what relief are the workmen entitled?

12. It was numbered as Reference No. 4(N.T.) of 1967. By the Ministry's Order No. 17/4/67 LRIII dated 5th December, 1967, the reference has been transferred for adjudication to this Tribunal.

13. The Bombay and Delhi Unions have jointly filed a statement of claims which is a rather voluminous document. I propose to state their case as shortly as possible. After quoting the first issue, they have said that the Government of India enacted the Working Journalists (Conditions of Service and Miscellaneous

Provisions) Act, 1955 and thereafter the non-journalist employees in the Newspaper Industry started agitation for application of that Act to them. The Newspaper Employees of all over India formed the All India Newspaper Employees Federation, a national organisation, belonging to both sections of the industry. The Bombay and the Delhi unions of the Bennett Coleman and Co., joined the Federation from its inception. On the agitation made by the Federation, the Government of India appointed the two Wage Boards, one for journalists and another for non-journalists. As I have already stated in the beginning, both were under the Chairmanship of Mr. Justice Shinde (Retd.). The General Secretary of the unions, Shri S. Y. Kolhatkar, was nominated by the Federation as a representative of the non-journalist employees and the Government of India accepted this nomination and appointed him on the Board as a representative of the non-journalist employees.

14. The Federation submitted a petition on the 6th August, 1964 to the Wage Board for non-journalists to consider the question of payment of interim relief. In the post-war period, the industry has prospered greatly; but it was represented that payment made to the employees were miserable as compared with other industries. The Board referred the question of jurisdiction to the Government of India and—*vide* its notification, dated the 7th October, 1964—the Government said that the "Board shall also consider the demands for grant of interim relief to the non-journalist employees of the Newspaper establishments. .....".

15. The Unions have given details about the Wage Board modifying its earlier resolution and stating that, where one establishment runs several News Papers of different classes, the employees of that establishment will be paid interim relief on the basis of the average of all those classes. As I have already mentioned, the Government of India accepted the modified recommendations of the Wage Board relating to the Interim Relief. They said in paragraph 2(3) of their resolution dated the 9th April, 1965:—

> "In the case of group, multiple and chain newspapers of different class in the same establishments, the non-journalist employees should be given interim relief equal to the average of the quantum of the interim relief recommended for the different classes of newspapers in the said establishments.".

'In paragraph 3 of the same resolution, the Government of India said:—

> "Government have decided to accept the recommendation of the Wage Board and to request the concerned employers to implement the same as early as possible"."

16. The unions have then given details of the correspondance which passed between the union and the management wherein the unions pressed for payment of the interim relief and the management refused to make the payments, mainly on the ground that the recommendations of the Wage Board in respect of the non-journalists were not statutorily binding upon the management.

17. The Union have further alleged that employees of Bennett Coleman and Company were compelled to resort to an indefinite strike with effect from the 17th February, 1967 when they went on sit down strike. During the period of strike the company took the stand that it did not pay interim relief because it (the company) was not covered within the recommendations of the Wage Board for non-journalists. The unions, therefore made representations to the Government of India that the question whether the recommendations of the non-journalist Wage Board were applicable to the Times of India establishment should be resolved by reference of the dispute for adjudication.

18. The unions have given figures in support of their statement that the Times of India has not been paying exhorbitant dearness allowance to its employees as contended by it and has further stated that, during the past ten years, the total gross revenue of the Times of India has increased from 3,06,75,517 in 1957 to 7,63,79,470 in 1966.

19. The Times of India management cannot claim exemption from the payment of interim relief to its employees and that too on the fallacious ground that the company is paying dearness allowance at a very high rate. The employer's representatives who were on the Board, also accepted the recommendations on behalf of the industry as a whole and, therefore, the said recommendations amount to a bipartite agreement between the Newspaper Employees on the one hand and the Newspaper management on the other and no employer can flout it under any pretext.

20. Shri P. K. Roy, the General Manager of the Times of India, was a member of the Wage Board when it was constituted on the 25th February, 1964 and remained a member of the Board until the 29th May, 1964 on which date he submitted his resignation. He did not claim at any time any special treatment for the Times of India.

21. In the course of their statement of claim, the unions had originally quoted demand No. 2 as follows:—

> "Whether the non-journalist workmen of Bennett Coleman & Co. Ltd., are entitled to the payment of wages for the period of strike from February 17, 1967 and the period of lockout from February 27, 1967 to March 26, 1967".

In the course of the argument of Mr. Sule on their behalf, a slip was made over to me which quotes demand No. 2 as follows:—

> "Whether the Bennett Coleman & Co. Ltd., was justified in not paying wages to its workmen, both in Bombay and Delhi, during the periods of strike commencing from the 17th February, 1967 and lock-out declared from the 27th February, 1967 to the 26th March, 1967. If not, to what relief are the workmen entitled?"

22. Mr. Phadkhe, appearing on behalf of the company, has argued that the unions made out a case in their original written statement that demand No. 2 also related only to non-journalists but they have tried subsequently to make out that demand No. 2 related to both journalists and non-journalists. On the other hand, Mr. Sule has argued that mistake in the original quotation is only a typing mistake because the typist has, instead of typing the first line of issue No. 2, typed the 1st line of issue No. 1. In my opinion, the other statements of the union in connection with issue No. 2 supports the submission of Mr. Sule.

23. In any case, the statement of claims filed by the unions proceeds further to state that the period of strike was from the 17th February, 1967 to the 26th February, 1967 and the period of lock-out by the management was from the 27th February, 1967 to the 26th March, 1967 and that all the employees in the Bombay and Delhi establishments went on an indefinite sit-down strike as per the notice given by the respective employees' unions to the management of Bennett Coleman and Company. This was entirely due to the illegal attitude of the management in refusing to implement the decision of the Wage Board in regard to interim relief inspite of the fact that "the entire industry in the country had implemented the said notification ungrudgingly and honoured the recommendation of the Wage Board". With regard to the working journalists, the Wage Board for journalists recommended interim relief. These recommendations were accepted by the Government of India and were notified under section 13A of the Working Journalist (Conditions of Service and Miscellaneous Provision) Act. Having been accepted by the Government of India, the recommendations became binding on the Times of India management under the statute and there was no justification for not implementing them. Instead of paying the interim relief, the management filed a petition in the High Court of Bombay on the 15th June, 1965, being miscellaneous petition No. 286 of 1966, although the recommendations were accepted by the Government of India as early as the 23rd November, 1964. The High Court admitted the petition but did not grant stay. Thus the High Court gave no authority to the company for non-payment of the statutory dues of the working journalists. The Government of India and the Government of Maharashtra also failed to take any step against the company for recovery of the lawful dues of the workmen. On these grounds, the strike by the working journalists was justified and must be held to have been provoked and forced on them by the company's own action.

24. The unions gave two notices of strike but, in a spirit of co-operation, withdrew those notices. It was only when they became helpless that they went on strike.

25. They have given details of the correspondence which passed between the unions and the management on the subject of interim relief in order to show that the unions made serious efforts to obtain relief by amicable means without going on strike.

26. Dr. R. C. Cooper was the Chairman of the Board of Directors of Bennett Coleman and Co., but he resigned his position. For this reason also, the unions had to defer their decision to go on strike. By October, 1966, the company Law Tribunal appointed Shri D. K. Kunte as the Chairman of the Board of Directors.

He gave the employees some hopes but ultimately nothing happened. At its meeting on the 8th February, 1967 at Delhi, the Board of Directors decided to fight the proposed strike of the workers and obtained legal advice. The company went to the extent of obtaining an ex-parte temporary injunction order from the City Civil Court of Bombay against the proposed strike by the workers. This was heard by the City Civil Court on the 15th and 16th February, 1967 when the ex-parte order of injunction was vacated for want of jurisdiction. The unions filed a revision petition in the High Court of Bombay and succeeded in getting that court to vacate all restraint orders of the City Civil Court against the strike by the workmen. This order was made at about 4.00 p.m. on the 17th February, 1967 and the workers went on strike at about 6 p.m. on that date.

27. The case of the unions further is that the strike was completely justified and it was legal in both Delhi and Bombay; and, therefore, the workers are entitled to full wages for the period of strike. On the contrary, the company resorted to lock-out from the 27th February, 1967 until the 26th March, 1967 merely in order to try and break the morale of the workmen and to weaken their action. The lock-out was totally unjustified. The reasons given for the lock-out in the notice issued by the management under the signature of the General Manager of the company for the Bombay Press and under the signature of the Branch Manager for the Delhi Press are fabricated, untrue and baseless. The lock-out was malafide and vindictive.

28. Though the unions have on their rolls the entire Watch and Ward Staff, Fire-Brigade staff and Medical staff, these staffs were exempted from the strike only for the purposes of maintaining peace and ensuring the security of the company's property and to allow essential services to run even during the strike by the workmen.

29. The management of the company has filed a written statement and a supplementary written statement. In the written statement, it has referred to the fact that the Government of Maharashtra referred the demands of the Times of India and Allied Publications Employees Union for adjudication to the Industrial Tribunal, Bombay, that the parties referred their disputes to Shri S. T. Desai for arbitration, that Shri S. T. Desai gave his arbitration award as a settlement, that the award was filed by the parties before the Industrial Tribunal on the 9th September, 1963 and that the Industrial Tribunal made its award in terms of that award, treating it as a settlement. On the agreement of the parties, Shri S. T. Desai fixed the period of operation of his award to be five years from the 1st August, 1962. The award given by Shri Desai has, however, not yet been terminated in accordance with the provisions of section 19 of the Industrial Disputes Act. The Wage Board for non-journalist employees is not a statutory body and its recommendations have no legally binding effect. The Wage Board made certain recommendations for payment of interim relief and the Central Government, by its notification published in the Gazette of India, dated the 24th April, 1965, requested the concerned employers to implement the same. The company's case is that the appointment of the Wage Board, its recommendations for interim relief, the notification of the Central Government accepting the said recommendations were all made during the period when the award of the Industrial Tribunal made in terms of Shri S. T. Desai's award was in operation in the company. The present reference dated the 4th July, 1967 was also made during the operation of the said award. Under the provisions of the Industrial Disputes Act, no valid reference of any dispute with regard to wages, dearness allowance or interim relief on account of wages or dearness allowance could be made during the period of operation of the previous award. The company, therefore, submits that demand No. 1 contained in the reference, made by the Central Government dated the 4th July, 1967 is illegal and invalid in law.

30. The strike and lockout came to an end on the 26th March, 1967 by virtue of a settlement of that date. The Memorandum of settlement which was drawn up shows that the only issue on which the workmen went on strike was the question of granting interim relief. By the settlement of the 26th March, 1967, the management agreed to pay to the workmen at Bombay and Delhi a sum of Rs. 9 lakhs as early as possible by way of advance of wages recoverable from the employees' wages in twelve equal monthly instalments commencing from the wages of September, 1967. The agreement further stipulated that the wages due to the workmen for the days during February, 1967 when they actually worked would be paid to them as early as possible. Nothing was stated in the agreement about the payment of interim relief or the payment of wages for the period of the strike and lockout. Thus the entire matter in dispute between the parties was concluded by the agreement and no outstanding dispute could be referred to the Tribunal under section 10(1A) of the Act. The agreement has not left any

question open. Hence the reference of the alleged dispute regarding interim relief is void and illegal in law. No such dispute survives after the settlement.

31. The 1st demand referred to this Tribunal involves the question of interpretation of the recommendations of the Wage Board for non-journalist employees and the company submits that such a question of interpretation is not an industrial dispute within the meaning of the Industrial Disputes Act. As the recommendations of the non-journalist Wage Board have no statutorily binding effect, no question of giving any relief in respect of these recommendations can arise.

32. The reference of the second question *i.e.* the question of payment of wages for the period of strike and lockout is invalid because of the settlement dated the 26th March, 1967. The settlement expressly provides for payment of wages for the number of days in February during which workmen actually worked. There is no reservation of the right of the workmen to agitate the question of wages for the period of strike and lockout. The agreement was expressly entered into to put an end to the strike and lockout and the company submits that the question of payment of wages for the strike and lockout period does not arise. The company has prayed that these are questions of a preliminary nature and they should be decided first.

33. In the supplementary written statement, the company has made several statements of fact which need not be repeated in this award. I must, however, refer to some of the statements made in it. It has stated that the company denies that the Government of Maharashtra or the Government of India approached the company to pay the interim relief. It further denies that any dispute regarding interim relief survives in view of the settlement dated the 26th March, 1967. It also denies that the sit-down strike resorted to by employees from the 17th February, 1967 onwards was peaceful or disciplined. The lockout declared by the company was not illegal; it was declared by the company after it had waited for ten days for the workmen to resume work and that too when the atmosphere became tense and the company feared breach of the peace and damage to its property. As the strike was sit-in strike, and as even the sanitary staff were on strike, the entire place became very unhygienic. The lockout was therefore the unavoidable consequence of the strike. It was lifted immediately after the union showed willingness to resume work. The strike was also illegal because it was resorted to during a time when the award of the Industrial Tribunal, Bombay, given in terms of Shri S. T. Desai's award was in operation.

34. The Government of India issued its notification in April, 1965, requesting the employers to implement the interim recommendations of the Wage Board. From that very month, the company made its stand quite clear to the effect that, in view of Shri S. T. Desai's award, there was no scope for the payment of any interim relief to its employees. Indeed, the employees ultimately resorted to strike during the General Election with a view to pressurise the company to make payment of the interim relief, knowing well that the newspapers' reputation would be seriously affected by the strike. Hence the strike at such a time was completely unjustified. . .

35. The claim for interim relief was mainly based on the rise of the cost of living index and on the fact that the wages of the workmen had remained more or less static, resulting in a great erosion of the real wages of the workmen. In most Newspapers establishments, there was no system of paying dearness allowance. Wherever dearness allowance was paid, it was ordinarily paid at fixed rates. So far as this company is concerned, dearness allowance was linked not only with the wages paid to the employees but also to the cost of living index in Bombay. The circumstances prevailing in this company, therefore, were quite different from those prevailing in other Newspapers concerned. The company submits that the wages paid by the company were the highest prevailing in the newspaper industry in the country. The company denies that the Newspaper industry has prospered substantially in the postwar period.

36. The company denies to have submitted any data from its Bombay or Delhi presses in compliance with the proforma issued by the Wage Board. No copy of such proforma is on the records of the company. In view of the different matters which the Wage Board has considered for the purpose of grant of interim relief, the company submits that in recommending the interim relief the Wage Board had in mind the concerns in which dearness allowance was not paid or, where the dearness allowance was paid, it was a flat rate of dearness allowance.

37. It has been pointed out that the rate of neutralisation prevailing in the company is the highest in the Newspaper industry. Further more, the question

what should be the rate of neutralisation can only arise in a claim for revision of dearness allowance and has no relevance in the present proceedings.

38. The Company denies that the employers' representatives on the Wage Board agreed to the resolution relating to interim relief after consulting the Organisation of the Newspaper Employers. The Company denies that Shri Upendra Acharya agreed to the resolution of interim relief as a result of concurrence of his organisation, The Indian and Eastern Newspaper Society. The company denies that any meeting was held by the Indian Newspaper Society on the question of interim relief.

39. It has not been denied that other Newspapers have implemented the recommendations regarding interim relief but it has been stated that they did so because most of them did not pay any dearness allowance or the dearness allowance, if any, was paid by them at a flat rate. In the case of the Hindu, the Mail, the Statesman, the Hindustan Times and Mathrabhoomi, dearness allowance is linked to the cost of living index figure, but the rate of neutralisation is not as high as that of this company. Furthermore, it is not known whether there was any binding award in these five concerns when the Wage Board recommendations for interim relief were made.

40. With reference to issue No. 2, the Company's case is that the strike was not at all justified. The Company denies that it had defied any notification of the Government of India.

41. When the Government of India accepted the Wage Board's recommendations relating to Interim Relief on the 24th April, 1965, the company made its stand known immediately. Thereafter there was no urgency for the workmen in February, 1967, to go on strike. The strike was resorted to at that time—the time of General Election—merely to put pressure upon the company.

42. The parties have not adduced any oral evidence. They have filed some documentary evidence which I may refer to whenever necessary. They have also filed some affidavits. Three affidavits have been filed on behalf of each party. The management has filed the affidavits of Shri D. K. Kunte who was appointed Chairman of M/s. Bennett Coleman & Co. Ltd., by order of the Company Tribunal dated the 14th October, 1966,—Shri P. K. Roy, General Manager of M/s. Bennett Coleman & Co. Ltd. and Shri V. G. Karnik, Personnel Manager of Bennett Coleman & Co. The first two affidavits were sworn on the 5th August, 1968 and the third affidavit was sworn on the 29th January, 1969.

43. The unions have filed the affidavit of Shri Shripad Yeshwant Kolhatkar who was appointed a member of the Wage Board, as representing the non-journalist employees of the Newspaper Industry. The appointment was made by the Government—*vide* its resolution No. WB-17(2)/63, dated the 25th February, 1964. He worked as a member of the Wage Board until January, 1965. Another affidavit which has been filed by the union is that of T. M. Nagarajan. He is the General Secretary of the Bennett Coleman & Co. Employees Union, Delhi and also the General Secretary of the Statesman Employees Union, Delhi. On the date on which he swore the affidavit, he was employed as a sub-editor in the Statesman, New Delhi. On the 7th January, 1966, the Government of India appointed him as a member of the Wage Board as representing the non-journalist workmen in the Newspaper Industry and he continued to be a member until the Wage Board submitted its final recommendation to the Government of India.

44. The third affidavit which the unions have filed is that of Shri K. L. Kapoor, General Secretary of the All India Newspaper Employees Federation, a Federation of the Trade Unions of the Newspaper Employees in the country. S/Shri Kolhatkar and Kapoor swore their affidavits on the 2nd August 1968 and Shri Nagarajan swore his affidavit on the 31st January, 1969.

45. I may briefly summarise the contents of the affidavits in the chronological order in which they were sworn.

46. Shri K. L. Kapoor has asserted that the All India Newspaper Employees Federation took up the question of Interim Relief with the Wage Board as soon as it was constituted. It submitted two statements of justification: one dated the 6th August, 1964 and the other later. Both these statements have been typed at pages 114 to 155 of the unions' statement of claim, Part I. Shri Kapoor has sworn that these statements are true copies of the statements which he signed on behalf of the All India Newspaper Employees Federation. He has further said that, sometime after issue of the Government notification, accepting the recommendations of the Wage Board for non-journalist employees, the Federation wrote letters

to the Central Government and the Government of Maharashtra bringing it to their notice that the Times of India Group of Publication did not implement the Wage Board's recommendations relating to interim relief. He has also proved that several documents, a list of which he has appended to his affidavit, are true and correct copies of the originals.

47. Shri Kolhatkar has stated in his affidavit that the Wage Board received as soon as it started functioning a representation from the All India Newspaper Employees' Federation asking it to recommend interim relief. At its meeting on the 29th August, 1964, the employers' representative raised an objection that the Board had no jurisdiction to consider the question of interim relief. The Wage Board, therefore, referred this question to the Central Government for clarification. By its notification No. WB-17(4)/64, dated the 7th October, 1964, the Government of India empowered the Wage Board to consider the question of interim relief. Thereafter, the All India Newspaper Employees' Federation filed two statements in justification of interim relief: one dated the 6th August, 1964 and the other later. The Wage Board discussed the statements and then circulated to all the Newspaper Establishments a proforma calling upon them to supply informations such as number of employees, basic pay, dearness allowance etc. This proforma was submitted to the Times of India Group of Newspapers also and, at the time when the Wage Board came to its final conclusion about interim relief, it had before it the information submitted by the Times of India Group of Newspapers.

48. Before summarising the affidavit of Shri Nagarajan, I give a summary of the statements made on affidavit on the 5th August, 1968 by Shri D. K. Kunte and Shri P. K. Roy. Shri D. K. Kunte has stated that he was appointed chairman by an order of the company Tribunal dated the 14th October, 1966, that he learnt that the Bennett Coleman & Co.'s stand was clear and that its contention was that, in view of the Desai Award, there was no validity in any demand for interim relief. So far as the working journalists were concerned, the company filed a writ petition in the Bombay High Court in June, 1965, challenging the validity of the order of the Central Government dated the 23rd November, 1964 regarding payment of interim relief to working journalists. The resolution of the Central Government dated the 9th April, 1965, was only a request and the company had made it clear in previous correspondence with the unions that it did not consider itself bound by that request. He denied Shri Kolhatkar's statement in paragraph 6 of his affidavit by saying that, at no time, he had given any assurance regarding interim relief. With reference to paragraph 7 of that affidavit, Shri Kunte has said that the legal opinion which the Board of Directors sought was as to the validity of the order of the Central Government dated the 23rd November, 1964 That order was in fact challenged by the writ petition in the High Court. The Board was advised further that the strike for which it received notice from the unions on the 1st February, 1967 would be illegal apart from being unjustified and hence it filed a suit to restrain the employees from going on strike. At the final hearing of the injunction matter, it was held that injunction could not be granted as it amounted to enforcing specifically a contract of service. The company's appeal against that order was not admitted and the employees immediately went on strike. He has further said that he does not recollect if Mr. Tidke, Labour Minister of the Government of Maharashtra, made any suggestion for arbitration or adjudication or for any ad-hoc payment. He has also said that no question was raised for payment of interim relief. As regards the question of payment of wages for the strike and lock-out period, he has stated that he wanted it to be made specially clear in the agreement that no such claim would be made and he told Mr. Hathi the Minister of Labour, Employment adn Rehabilitation in the Government of India, accordingly on the 25th March, 1967 and Mr. Hathi also stated that the question of payment for the period of strike and lock-out should not arise. It was suggested that the workers should be allowed to adjust the salary of the strike period against leave, not exceeding 15 days due to them. He has further said that he consulted his colleagues on this suggestion and it was not acceptable to them. There was never any question of the company withdrawing the writ petition which it has filed in the Bombay High Court Along with his affidavit, Shri D. K Kunte has filed a letter addressed by him to Shri N. K. Tidke, a letter addressed by him to Shri Hathi and a letter addressed by Shri Hathi to Shri D K. Kunte. I may quote an extract from letter No. 1254/LM/67 from Shri J. L. Hathi to Shri Kunte because the facts stated in it are illuminating. The extract is:—

> "During the discussions there was a hitch about the wages for strike and lock-out period. But because of the sincere desire on the part of both the parties a satisfactory formula was evolved While the management was not prepared to pay wages for the strike and lock-out

period, you agreed to allow the workers to adjust the salary due to leave period not exceeding 15 days. This was really a happy solution which was arrived at. It was, however, unfortunate that Shri Kolhatkar wanted time to inform his colleagues at Bombay and to get the settlement ratified. For some reasons he, however, could not inform you before the morning of the 26th. In the meantime, you also thought of consulting some of your colleagues and were advised, as you told me, not to accept the last clause of adjustment of leave for 15 days towards their wages. The whole thing had thus come to a dead-lock. As you know, the workers had originally wanted that the question may be left open, but as a satisfactory solution had been found involving adjustment of leave period towards the wages the matter had been considered as settled".

49. Shri P. K. Roy has, in his affidavit, stated that he confirms the statements made in the preliminary and suplemental written statements filed by the company. The Chairman has made an affidavit relating to facts within his knowledge and he will confine himself to the rest of the facts mentioned in the affidavit of Mr. Kolhatkar. He says that he was nominated member of the two Wage Boards as representing the Indian and Eastern Newspaper Society and not as representing M/s. Bennett Coleman & Co. Shri H. L. Parvana was appointed a member of the Wage Board for non-journalist in place of Mr. Kolhatkar under Government resolution dated the 26th May, 1965. Bennett Coleman & Co. Ltd., did not make any representation to either of the two Wage Boards on the question of interim relief nor was it asked by either Wage Board to make any representation before it. The Indian and Eastern Newspaper Society strongly opposed the demand for interim relief. The companies attitude from the beginning was quite clear. It was to the effect that the Government's Resolution for payment of the interim relief being only a request was not binding upon the company. The company was not at all responsible for the strike which was illegal and unjustified. The employees chose the period of General Election to pressurise the company to submit to their unjust demands. It is not true that all the Newspaper establishments have implemented the recommendation of the two Wage Boards for payment of interim relief. It became necessary after he had patiently waited for 10 days, to declare a lock-out to avoid any breach of peace or injury to the property of the company, as the tension was mounting because of the stay-in-strike. In fact they also even shifted their office from their main building and set up a temporary office at Ritz Hotel, as it was not possible for the officers of the company to safely enter the premises or to work at the office. The entire building of the office had also become very insanitary and unhygienic because, even the sanitary staff was on strike.

50. Shri V. G. Karnik has stressed in his affidavit the second demand as quoted in the unions' statement of claims saying that this demand was clearly confined to non-journalist employees only It has referred to paragraphs 21 and 83 of the unions' statement of claim and has said that the company confined itself for this reason to the question of wages payable to non-journalist employees only during the strike and lock-out period. It is also said that the word 'workmen' has been used in demand No. 2 in the same sense in which the same word has been used in demand No. 1. Besides, that word has to be understood in accordance with its definition in the Industrial Disputes Act. Working Journalists are not 'workmen' within the meaning of that term as defined in the Industrial Disputes Act. Furthermore, demand by working journalist for wages during the strike and lock-out period necessarily involves an adjudication into the justification of the legality of the payment of interim relief payable to the working journalists. The question of justification of the demand for the interim relief is pending before the Bombay High Court and hence it is difficult to discuss here matters which are sub-judice. The recommendations of the Wage Board for working journalists for payment of interim relief was statutorily binding under section 13-A of the Working Journalist Act. Hence, there were various remedies open to the working journalists to ensure payment of their demands. There was therefore no justification at all for them to go on strike. The strike by the working journalists was also unjustified for the following reasons The Wage Board fixed the rate of interim relief for them subject to a minimum and maximum amount. The Wage Board also said that, if the emoluments of a working journalist consisting of basic pay plus dearness allowance and interim relief, if any already granted voluntarily on or after the constitution of the Wage Board i.e. the 12th November, 1963 exceeded the emoluments which the working journalists would be entitled to after adding the interim relief granted by the Wage Board to the basic pay and dearness allowance, his emoluments would not be affected by the recommendations.

51. I may just make it clear at this stage that what the Wage Board appears to have meant is that if any interim relief was given voluntarily or by agreement to a working journalist on or after the 12th November, 1963, the recommendation of the Wage Board for payment of interim relief would be reduced to the extent of the relief already granted. As no interim relief was granted by the management of Bennett Coleman & Co., to the working journalists who were its employees, after the 12th November, 1963, this clause cannot be held to have come into operation.

52. A copy of the petition filed in Miscellaneous petition No. 286 of 1965 in the High Court of Bombay has been attached to Shri Karnik's affidavit. Shri Karnik has added that, for the reasons mentioned in the petition, the notification of the Government of India dated the 23rd November, 1964 is illegal void and not binding upon the company. He has also filed a copy of an affidavit sworn by Mr. S. A. Seshan, the then Under Secretary to the Government of India in the Ministry of Labour and Employment and filed in the High Court; along with a copy of his own affidavit in reply. He has based certain arguments on the contents of those two affidavits and has concluded that, as the amount paid by the company to journalists employees is higher than the amount payable under the Wage rate order dated the 29th May, 1959 plus the interim relief granted under the notification dated the 23rd November, 1963, the said notification did not apply to the company. He has asserted that the learned Judge of the Bombay High Court who admitted the company's petition took the view that, since the union was not a party, it would not be right to grant ex-parte stay. He has further said that no other significance can be attached to the fact that no order of stay was granted. He has submitted that the working journalists are not entitled to any wages or other relief during the period of strike and lock-out.

53. In reply to Shri Karnik's affidavit, the unions have filed Shri Nagarajan's affidavit dated the 31st January, 1969. He has stated that the Government of India appointed him as a member of the Wage Board for the non-journalist workmen with effect from the 7th January, 1966 and that he continued to be its member until the Board submitted its final recommendations to the Government of India. There was a settlement between the parties on the 26th March, 1967 and he signed that document on behalf of the Delhi workmen. With reference to paragraph 2 of Shri Karnik's affidavit, he has stated in paragraph 8 of his affidavit that demand No. 2 was not confined to non-journalist employees only. Para 83 of the statement of claim filed by the unions on the 21st August 1967 was intended to record the terms of reference with regard to issue No. (b) but the typist inadvertently copied issue No. (a). It was within the knowledge of the Company that the question of wages for the strike and lock-out period payable to journalist as well as non-journalist employees was referred to the Tribunal.

54. With reference to paragraph 3 of Shri Karnik's affidavit, Shri Nagarajan has stated in paragraph 9 of his affidavit that, on a proper construction, demand No. 2 is not confined to non-journalist employees only. With reference to paragraph 4, Shri Nagarajan has denied that working journalists are not workmen within the meaning of the term in the Industrial Disputes Act. He also does not admit that the demand by working journalists for wages during the strike and lockout period necessarily involves an adjudication into the justification or legality of the payment of interim relief. Although he says that he has been advised not to make any reference to the propriety of the recommendations made by the Wage Board because the matter is sub-judice in the High Court of Bombay, he has stated on the company's own admission that the recommendations are statutorily binding and, since no stay has been granted, the company was bound to pay the interim relief to the journalist employees. He has denied that the strike resorted to by the working journalists was entirely unjustified and illegal as alleged by the company. Not having been paid their legal dues within a reasonable time, the working journalists were free to go on strike in order to press their demand for their just claim.

55. The company did not originally make the journalist workman parties in the writ petition which they filed in the High Court. It was much after filing the petition that the company impleaded the working journalists. Shri Nagarajan has stated with reference to paragraph 10 of Shri Karnik's affidavit that he has been advised not to make any comment on the affidavit of Shri Seshan as that is the subject matter of a petition in the High Court; but he has accepted Shri Seshan's statement that the Statesman, an 'A' class newspaper, has been paying to its non-journalist employees dearness allowance which is linked to the cost of living index. He has asserted that the dearness allowance is also linked to the basic pay slab of each employee in that paper.

56. Inspite of the fact that dearness allowance is linked to the cost of living index and the basic pay, the Statesman is paying the interim relief as ordered by the Wage Board to its employees.

57. I consider it necessary at this stage to take up for consideration the preliminary objections raised on behalf of the company. The first objection, as I have already mentioned, is that, so far as the workers in Bombay are concerned, the award of the Industrial Tribunal, Bombay, given in accordance with the award of Shri S. T. Desai, treating it as a settlement, was in operation on the date on which the non-journalist Wage Board's recommendation for payment of interim relief to the non-journalists came into being and hence it was invalid. In my opinion, there is no substance in this objection. The Wage Board did not grant any amount as interim relief. Shri Sule has, therefore, rightly, argued that the as such. No payment was being made to them from before in the shape of interim relief and, indeed, Shri S. T. Desai did not order the non journalists to be paid any amount as interim relief. Shri Sule has, therefore, rightly, argued that the mere fact that the Wage Board gave an order which meant an increase to the non-journalist in their pay packet without particularising the basic salary or dearness allowance cannot be held to invalidate the wage board's recommendations for grant of interim relief to the non-journalists.

58. So far as the workmen of Delhi are concerned, Mr. Phadke admits that the award of Mr. Meher based upon that of Shri S. T. Desai cannot in law invalidate the present reference relating to them. He has argued, however, that this is a reference to a National Tribunal and, if reference relating to the workers of Bombay is invalidated, it becomes difficult to conclude that the Central Government was of the opinion that the reference should be made to a National Tribunal simply because of its effect upon the workers of Delhi. It is obvious that this argument has no force in view of the opinion which I have already expressed that the present reference relating to the workers in Bombay is not invalidated in view of the fact that the Wage Board has dealt with interim relief and not with basic salary or dearness allowance with which the Desai award dealt.

59. The agreement dated the 26th March, 1967, is on the record. It stipulated for payment of Rs. 9.00 Lakhs to the employees as an advance from their wages, the advance being recoverable in 12 equal monthly instalments. The agreement is completely silent about the payment or non-payment of interim relief. Although it has been stated in the agreement that the company would pay as quickly as possible the wages of the employees for the number of days in February during which they actually worked, it is completely silent about the payment of wages for the period of the strike and lockout. Whatever may be the position about the payment of wages for the period of strike and lockout, the omission to mention in the agreement about the payment or non-payment of the interim relief goes against the company. The employees specifically and expressly went on strike on the issue of payment of interim relief. If they had agreed to forego their claim for interim relief, they would have most certainly been asked to say so in the agreement. The company would not have remained satisfied merely with silence on the part of the employees in connection with this relief. As I will presently show, other circumstances also lead to a conclusion against the company on this point.

60. In so far as the payment of wages for the period of strike and lockout is concerned, the inferrence appears to be otherwise. As the parties specifically mentioned in the agreement that the workers would be paid the wages for the days in February during which they actually worked, they would have also said that payment would be made for the period of strike and lockout if there had been an agreement between the parties to that effect. As I will show later, the evidence filed by the parties also appear to lead to a conclusion against the workmen.

61. The objection of the company that the first issue referred to this Tribunal involves merely an interpretation of the recommendation of the Wage Board for non-journalist employees is equally without force. The question is not one of interpretation of the recommendations but the question is whether the recommendations of the Wage Board relating to interim relief should or should not be given effect to. There is therefore, no invalidity in the reference of the first issue to the Tribunal. The reference of the second issue namely the payment of wages for the period of strike and lockout is also not invalid because there is a dispute between the parties about this point which can certainly be decided by the Tribunal one way or the other.

62. It is necessary now to consider the two issues referred to me for adjudication in this case. I have quoted both issues together but I may quote once again each of the two issues separately, I first take up issue number (a) which is as follows:—

> (a) Whether the non journalist workmen of Bennett Coleman & Company Ltd., have been excluded by the Wage Board for non-journalists, for payment of interim relief in their recommendations notified by the Government of India in the Gazette of India, dated 24th April, 1965 [(Part 1, Section (i)]; if not to what relief are the non-journalist workmen entitled?

63. The admitted position is that the Wage Board for non-journalists has not excluded the Bennett Colemen & Co. Ltd., from its recommendations for payment of interim relief. In fact, Mr. Phadke has argued that the Central Government has cast this issue in a manner which does not represent the management's case at all. He says that the Central Government has picked up words suggested by the union at pages 56 to 58 of Vol. II, of the Unions' written statement His specific submission is that the Wage Board has included Bennett Coleman & Co., in the recommendations which it made for payment of interim relief but, for several reasons, the company is not liable to make the payment. One reason, according to him, is that the management has already under the Meher or Desai award paid the workmen much higher amounts as total wages including basic wage and dearness allowance than the amount of Rs. 11.00 which has been recommended by the Wage Board to be paid to the non-journalists as interim relief. The second reason is that the Meher or Desai award came into operation from 1st August, 1962 and the Wage Board's recommendations for payment of interim relief came into effect from the 1st May, 1964, i.e., from a date on which the previous award was in operation. Hence it is invalid. The third reason is that the Wage Board for non-journalists has said in paragraph 5 of its recommendations as follows:—

> "(5) If there be any agreement in force on the 1st May, 1964, between the Newspaper Establishments and their employees stipulating grant of interim relief subject to adjustments after the recommendations of Wage Board are brought into force, those agreements shall stand. If the interim relief already granted is less than recommended above, the non-journalist employees concerned shall get the difference of the two and if it is more than that recommended above then they shall continue to get the interim relief already granted to them".

64. It has been argued on this basis that, under the agreement in force between the parties in this case, the employees were getting on the 1st May, 1964 very much more on a permanent basis than the amount allowed by the Wage Board on a temporary basis as interim relief. That being so, it is said that the non-journalists are not entitled to get the interim relief in accordance with the recommendations of the Wage Board.

65 The fourth and last reason is that the Wage Board for non-journalists was a non-statutory Wage Board and hence its recommendations are not binding upon the management of Bennett Coleman & Co.

66. While elaborating the first point, Mr. Phadke has argued that dearness allowance is, under the Desai award, linked to the cost of living index and also to the slabs of increased basic pay of the workmen. The dearness allowance has gone from 61 per cent to 131 per cent though the cost of living index having now come down from 750.00 to 734.01, the dearness allowance has come down from 131 per cent to 129 per cent. Apart from the fact that the terms of reference do not entitle me to go into the question whether the workers of Bennett Coleman & Co. Ltd., were drawing more or less than adequate dearness allowance at the time when the recommendations for payment of interim relief were made, it seems to me that I cannot re-open the decision of the Wage Board which has been accepted by the Government of India. The Wage Board had doubtless sufficient materials before it including the information supplied by the companies on the proformas issued by it and, on the basis of those materials, they were led to their conclusions I cannot sit in appeal over their recommendations. In this connection, I accept the statement on affidavit of Shri Kolhatkar to the effect that when the Wage Board came to its final conclusion about interim relief it had before it the information submitted by the Times of India Group of Newspapers.

67. I have already referred to the second point while dealing with the preliminary objection. As, I have mentioned, the recommendation for payment of interim relief cannot become invalid because it does not specifically relate to basic salary or dearness allowance.

68. As to the third point, Mr. Phadke has argued that the Wage Board could not have contemplated that even the employees of a company like Bennett Coleman and Company which was paying dearness allowance linked to the cost of living index in Bombay and also to the slabs of increment of the employees concerned should be called upon to pay interim relief. What the Wage Board has said in paragraph 5 which I have quoted above means, according to Mr. Phadke, that wherever an employee was in actual receipt either on a permanent or temporary basis of an amount larger or equivalent to the amount of interim relief recommended by the Board, the employee would get nothing further. I am unable to agree. In my opinion, the Wage Board's resolutions appear to be perfectly clear. The cry before it was for interim relief. What it has said in paragraph 5 is that, if interim relief of another amount was already being given under an agreement in force on the 1st May, 1964 to the employees of a company, that will be taken into consideration or, in other words, that will be deducted from the interim relief payable under the Wage Board's recommendations. If, of course, the interim relief which was being paid to the employees of that company was higher than the amount recommended by the Wage Board, no further interim relief was to be payable under the recommendations of the Board.

70. Coming now to the fourth point, it is certainly true that the Wage Board was a non-statutory Wage Board but there were representatives of employers as well as employees and independent persons on the Wage Board so that it was a body on which interested and independent parties were fully represented. The unions have stated that the recommendations as to the interim relief has been implemented by all the different press companies. The management has, in its written statement, denied this fact. Shri P. K. Roy has, in his affidavit, denied that all the newspaper establishments have implemented the recommendations of the two Wage Board for payment of interim relief but has not given a single example, referring to another newspaper establishment and saying that that particular establishment has not implemented the recommendations of either of the two Wage Boards. I, therefore, accept the unions' case that all the newspaper establishments have implemented the recommendations relating to the interim relief.

71. The final recommendations of the Wage Board have also been made. They became effective from 1st January, 1968. By an agreement entered into on the 23rd April, 1968, Bennett Coleman and Company has accepted these recommendations to the extent of 70 per cent. That comes to a much higher amount than the recommendation for interim relief. The question of payment of interim relief at the rate of Rs. 11.00 per month per worker remains only for a short period i.e. from 1st May, 1964 to 1st January, 1968. Taking all the facts and circumstances into consideration and taking further into consideration the fact that admittedly the Wage Board did not exclude Bennett Coleman & Company from its order for payment of interim relief, I think that the relief which the workers are entitled to is that the company should pay them the interim relief at the rate recommended by the Wage Board.

72. I now take up issue No. (b) which is as follows:—

> "Whether the Bennett Coleman & Company Limited was justified in not paying wages to its workmen, both in Bombay and Delhi, during the periods of strike commencing from the 17th February, 1967 and lock-out, declared from the 27th February, 1967 to the 26th March, 1967; if not, to what relief are the workmen entitled?"

73. The parties have made different statements as to what talks took place between them about the wages for the period of strike and lock-out. The most authentic statement on the point, however, is what has been stated by Shri J. L. Hathi in the letter which he wrote to Shri D. K. Kunte. I have already quoted the most important parts of his letter. It shows that there was a talk between the parties about wages for the period of strike and lock-out and that there was actually a hitch in this connection. The workers had originally wanted that the

question might be left open. The management was not prepared to pay wages for the strike and lock-out period but Shri Kunte personally agreed to allow the workers to adjust against wages for that period the leave salary due to them for a period not exceeding 15 days. Shri Kolhatkar took time to consult his colleagues but, for some reason, he could not given any information to the other party or others concerned in the matter until the morning of the 26th March, 1967. In the meantime, Shri Kunte consulted his own colleagues and they advised him not to accept the last clause relating to adjustment of leave salary to the extent of 15 days leave towards their wages for the strike and lock-out period. Thus the result was that there was no settlement in law or in fact though Shri Hathi has talked in his letter of there having been a settlement. I must, therefore, come to the conclusion that there was no agreement between the parties relating to the payment of wages for the strike and lock-out period.

74. Another fact which must be noted is that it is true that the unions wrote several letters to the management insisting upon the payment of interim relief as recommended by the Wage Board and the management always replied that they were not bound to make the payment but this was a case of recommendation by a non-statutory Wage Board. The unions ought to have waited until a reference was made to a Tribunal for adjudication in the matter. They should not have taken the extreme step of going on strike until there was a Tribunal's decision in their favour for payment of the interim relief. There was no particular hurry. The management had already made its position clear. No particular harm would have come to the workers if they had waited for sometime longer, awaiting a reference to a Tribunal and a decision of that Tribunal. On account of the hurry on the part of the unions, there seems to be truth in the management's case that the strike was resorted to at the time at which it was done because of the impending General Election in order to pressurise the company to submit to their demands. In this connection, I may refer to a decision of the Supreme Court in the Chandramalai estate, Ernakulam *Vrs.* Its workmen and another, reported in 1960(II) L.L.J. 243. In that case, their Lordships have observed that while strike is a legitimate and sometimes unavoidable weapon in the hands of labour, it is equally important to remember that indiscriminate and hasty use of this weapon should not be encouraged. The concerned workmen might well have waited for some time after conciliation efforts failed before starting a strike and, in the meantime, they could have asked the Government to make a reference. Hence, the concerned workmen should be held not to be entitled to any wages for the strike period.

75. Another important fact is that the workers went on a sit-in-strike. It is difficult to see why they should not have merely struck work but should have gone on a sit-in-strike. Such a strike partakes of the nature of trespass. While the unions' case is that they did not ask the sanitary staff to go on strike, Shri P. K. Roy has stated in his affidavit that the sanitary staff was also on strike and the entire building of the office became unhygenic. He has also stated that he had to shift the office from the Times Building to the Ritz Hotel because tension was mounting and it was unsafe for officers of the company to attend the main office. In this connection, I may refer to a decision of Wanchoo C.J., and Modi J. of the Rajasthan High Court in Sadul Textile Mills Ltd., *Vrs.* their workmen and Industrial Tribunal, Jaipur, reported in 1958 (II) L.L.J. 628. Their Lordships have observed that, even without violence, a stay-in or sit-down strike is an invasion of the rights of the employer and there could be no justification for such a strike. By staging a stay-in-strike, the workers commit wrong and put themselves out of court even though they might not have actively committed acts of violence or sabotage. By remaining on the property, they practically deprive the employer of his property and also practically stop him from carrying on business with the help of others. There is, at the very least, an element of trespass upon the property of the employer in the case of a sit-down or stay-in-strike and such a strike must, therefore be held to be unjustified, whatever may be the justification of an ordinary strike in similar circumstances. Hence the workers participating in such a strike could not claim any wages for the strike period on the ground that the strike was for justified reasons.

76. It is unnecessary for me to decide whether this question relates only to non-journalist employees as alleged by the management or it relates to both journalist and non-journalist employees as alleged by the unions because my conclusion on a consideration of all the facts and circumstances is that none of

the strigers is entitled to wages for the period of strike and lock-out which actually followed as a result or consequence of the strike.

77. This is my award. It may be submitted to the Central Government under section 15 of the Industrial Disputes Act.

(Sd.) KAMLA SAHAI,

Presiding Officer.

[No. 17/4/67/LRIII.]

S. S. SAHASRANAMAN, Under Secy.

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